

**Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Promoting Telehealth for Low-Income)	WC Docket No. 18-213
Consumers)	

COMMENTS



The American Cable Association (ACA) hereby submits comments in response to the Notice of Inquiry (NOI) in the above-captioned proceeding.¹ ACA supports the Commission’s goal of improving health care outcomes through broadband access, and believes the “connected care” concept is a forward-thinking model that can achieve this objective. ACA thus applauds Commissioner Carr for his leadership in developing this NOI, which seeks comment on a broad range of issues relevant to designing a successful “connected care” Universal Service Fund (USF) pilot program. In these comments, ACA offers some high-level recommendations it hopes the Commission will

¹ See *Promoting Telehealth for Low-Income Consumers*, WC Docket No. 18-213, Notice of Inquiry, FCC 18-112 (rel. Aug. 3, 2018).

exclusively follow, or at least experiment with, as it develops its “connected care” pilot program.

In developing the program, the Commission should seek to leverage to the greatest extent possible the investments that local, facilities-based providers, including smaller providers such as ACA members,² have made to deliver broadband service to their communities. A provider that already serves a community can supply the broadband component of “connected care” much more cost-effectively than a provider undertaking a new build. As a corollary, the Commission’s core USF principles demand that it take appropriate measures to prevent the use of program funds on deployment of broadband facilities to locations already served by an unsubsidized competitor.³

To maximize interest and participation in the program from local, facilities-based broadband providers, and to avoid overbuilding, ACA recommends the following:

- First, the Commission should not rely on partnerships between health care providers and broadband providers to deliver low-income customers the broadband connectivity they need to receive care under a pilot project when the needed service is already available from existing broadband providers.

² ACA represents approximately 750 small and medium-sized providers of broadband and other communications services, who collectively pass about 18 million households and serve almost 7 million. ACA members provide vital broadband connectivity in rural areas where investment from larger providers is often lacking. In more urban areas, ACA members compete as “overbuilders” by providing high-quality service offerings and exceptional customer service. In 2013 through 2017, ACA members invested more than \$10 billion to expand and upgrade their broadband networks, and they continue to invest more than \$1 billion annually. Several ACA members have deployed out Gigabit broadband service throughout their service territories, and others are working to reach this milestone in the near future.

³ See *Connect America Fund* et al., WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17859, para. 607 (2011), *aff’d sub nom.*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). ACA also agrees that the pilot program should not support overbuilds of subsidized deployments. See NOI, ¶ 33.

Rather, where program funds will be used to provide broadband service directly to low-income customers, the Commission should seek to administer these funds under its Lifeline authority⁴ through the issuance of electronic vouchers that customers could use to purchase broadband service directly from their choice of provider, regardless of whether the provider is an Eligible Telecommunications Carrier (ETC).⁵ For instance, if a project requires that each patient have access to “25/3” broadband service, a patient could use its e-voucher to purchase service from any eligible provider capable of providing service at that speed. This method of disbursing funds,⁶ which the Commission has the statutory authority to implement, would better promote participation of and competition among providers, as well as cost-efficient use of existing infrastructure, than would a partnership-based model.

- Second, if there are instances where a health care provider applicant must conduct its project by means of a partnership with a broadband provider,⁷ the applicant should be required to solicit bids through a Request for Proposal

⁴ See NOI at Statement of Commissioner Jessica Rosenworcel (“This inquiry . . . contemplates subsidizing service to patients in their home in areas that may or may not be rural. The statutory authority available for doing *this* is the Lifeline.”).

⁵ See AT&T Comments on Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42 et al. at 19-22 (filed April 2, 2012) (explaining why the statute does not require Lifeline providers to be ETCs); Comments of ACA on Lifeline and Link-Up Reform and Modernization et al., WC Docket No. 11-42 et al., at 11-12 (filed Aug. 31, 2015) (ACA Lifeline Comments).

⁶ For more specifics on how such a program could be designed, see AT&T Comments on Technology Transitions, GN Docket No. 13-5 at 36-37 (filed July 8, 2013).

⁷ A partnership-based model would be necessary or appropriate where, for instance, no existing provider offers the minimum level of broadband service the project requires, or where the nature of the project demands close participation from a broadband provider.

(RFP) process.⁸ By requiring health care providers to take this step, which is consistent with requirements of the Commission's E-Rate and Rural Health Care programs,⁹ the Commission can help ensure that limited universal service funds are used for cost-effective partnerships.

- Third, a health care applicant that partners with a broadband provider should be required to select an existing local provider if any such provider is willing to provide the broadband service the project requires. To achieve this outcome, should no existing local provider prevail in the RFP process, a health care applicant should be required to present to all existing local providers, regardless of its ETC status, the bid that it selected in the RFP process as the provisional winning bid, and these existing local provider would then have the right to match the bid.¹⁰ Where a project would cover an area that no one broadband provider fully serves, the Commission should make clear that applicants are allowed, and would be expected, to partner with multiple

⁸ This step would be particularly important where no providers in an area are capable of providing the level of service that is necessary for the pilot project, and one provider may need to upgrade its network to meet the project's needs.

⁹ See, e.g., Universal Service Administrative Company, Schools and Libraries, Step 1: Competitive Bidding, <https://www.usac.org/sl/applicants/step01/default.aspx> (last visited Sept. 10, 2018); Universal Service Administrative Company, Rural Health Care, Healthcare Connect Fund, Step 3: Prepare for Competitive Bidding, <https://www.usac.org/rhc/healthcare-connect/Individual/step03/default.aspx> (last visited Sept. 10, 2018); Universal Service Administrative Company, Rural Health Care, Telecommunications Program, Competitive Bidding, <https://www.usac.org/rhc/telecommunications/health-care-providers/competitive-bidding.aspx> (last visited Sept. 10, 2018).

¹⁰ If an area has more than one existing local provider, then both providers would be given a right to match the bid, and if more than one provider agrees to match, then the health care provider would give each an opportunity to offer their best and final bid and choose the lowest bid among the existing providers.

broadband providers. These clarifications would go a long way toward preventing the use of program funds to subsidize overbuilds.

- Fourth, there should be an opportunity for existing local providers to review and challenge a provisionally approved project on the basis that the project did not rely upon vouchers where required, did not conduct the RFP process as required, did not give local providers the right to match, or for other reasons.
- Finally, to facilitate broad participation from existing providers the Commission should adopt broadband provider eligibility requirements that are as flexible as possible. As noted above, ACA believes non-ETC broadband providers should be allowed to participate in the program in certain ways. Where designation as an ETC may be necessary to participate, a broadband provider should be permitted to obtain ETC status within a reasonable timeframe after projects are selected,¹¹ and a streamlined designation process should apply.¹² ACA has documented elsewhere the burdens of achieving an ETC designation¹³; making ETC status a requirement in the

¹¹ See, e.g., *Connect America Fund et al.*, WC Docket No. 10-90 et al., 31 FCC Rcd 5949, 6001 ¶ 146 (2016) (“[W]e require winning bidders in the [Connect America Fund] Phase II competitive bidding process to submit proof of their ETC designation within 180 days of the public notice announcing them as winning bidders.”).

¹² See, e.g., *Lifeline and Link-Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 32 FCC Rcd 3962 at Section III.D (2016) (creating a streamlined Lifeline Broadband Provider ETC designation process).

¹³ See, e.g., ACA Lifeline Comments at 10.

application phase will dampen interest in the program from many capable providers that would otherwise be strong candidates to participate.

In addition to encouraging participation from local broadband providers and avoiding overbuilding, the pilot program should seek to ensure fiscal responsibility. ACA is pleased the Commission has proposed and sought comment on a budget for the pilot program. As Commissioner O’Rielly observes, the USF budget is finite, and there are many competing uses for USF dollars.¹⁴ Accordingly, the overall budgetary impact on USF must be an overriding consideration in any decision to allocate funds, and setting a fixed budget for the pilot program is an essential step to achieve that goal.

ACA appreciates the opportunity to comment on the NOI, and it encourages the Commission to take its comments into account as it develops and implements its “connected care” pilot program.

Respectfully submitted,



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¹⁴ See NOI at Statement of Commissioner Michael O’Rielly.